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HEADQUARTERS EIGHTH ARMY
United States Army
Office of the Staff Judge Advocate

Yokohama, Japan
15 August 1947

UNITED STATES OF AMERICA VS MOKICHI HARA

Review of the Staff Judge Advocate

1. The attached record of trial by common trial of Yuhei Hosotani, Hiromu Saito, Yasuo Kobayashi, Mokichi Hara and Shigeo Hashimoto at Yokohama, Japan from 1 July 1946 to 31 July 1946, by a Military Commission appointed by paragraph 13, Special Orders No. 165, Headquarters Eighth Army, United States Army, dated 16 June 1946 as amended by paragraph 14, Special Orders No. 171, same headquarters, dated 3 July 1946, having been referred to the Staff Judge Advocate for review, these matters concerning accused Mokichi Hara are submitted to the Commanding General.

Personal Data Concerning Accused

NAME: Mokichi Hara	DATE OF CONFINEMENT: 26 November 1945
AGE: Thirty-two (32)	DATE OF ARRAIGNMENT: 1 July 1946
RESIDENCE: No. 853 Ikenishi Mura, Kagawa Gun, Kagawa Prefecture.	PLACE OF TRIAL: Yokohama, Japan
MARITAL STATUS: Married	PERIOD OF TRIAL: 1 July 1946 to 31 July 1946
RELATIVES: Wife and child.	DATE OF SENTENCE: 31 July 1946
EDUCATION: Nine years (three years Kagawa Agricultural School)	SENTENCE: CHL for one (1) year.
MILITARY CAREER: Army from 1936 to September 1941.	
CLEMENCY RECOMMENDED BY COMMISSION: No.	

2. Synopsis of Charge, Pleas, Findings, Legal Sufficiency and Sentence:

Charge and Specifications:

Between 1 October 1944 and 15 August 1945 accused did willfully and unlawfully commit cruel, inhuman and brutal acts, atrocities and other offenses against certain American, British, and other Allied Prisoners of War, in violation of the Laws and Customs of War.

<u>Pleas</u>	<u>Findings</u>	<u>Legally Sustained</u>
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NO	G	Yes
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Specification 1: On or about 15 July 1945, accused did willfully and unlawfully mistreat and abuse Paul Rittahaler, an American PW, by beating him with his fists and a club.

NO	G	Yes
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Specification 2: That between 1 October 1944 and 15 August 1945, accused did willfully and unlawfully mistreat and abuse numerous American, British and other Allied PW's.

NO	G	Yes
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Sentence Imposed: To be confined at hard labor for a period of one (1) year.

Maximum Legal Punishment: Death.

3. Summary of Evidence:

This is a common trial of Yuhei Hosotani, Hiromu Saito, Yasuo Kobayashi, Mokichi Hara and Shigeo Hashimoto. This review will cover only the evidence as may properly be considered against accused Hara. The review of the other accused will be taken up in a subsequent review.

a. For the Prosecution:

As to Specification 1: Between the first and fifteenth of June 1945 Paul Rittahaler, a prisoner of war at Zentsuji Camp, was cooking a large pot of beans, at Sakaiide Railroad Station where the prisoners were working. Accused, who was a guard, questioned him as to why he was not working with the other prisoners loading maize. He replied that Chief Boatwain's Mate Townsend had ordered him not to do any other work but cooking. About an hour later accused came to Rittahaler, made some remark he did not understand and beat him for several minutes with his fists. Rittahaler then walked over to the railroad track where the other prisoners were working. Accused followed him and talked in a loud tone of voice which he could not understand. He picked up one hook for handling baggage and was looking for another one when accused hit him in the jaw. He could not remember how many times accused hit him but recalled being knocked over a sack of maize. While in this position accused beat him with a bamboo stick about three feet long and three quarters of an inch thick. Before he was able to arise he hit him with his fist and hand (Exs. 12, 34, 46, 64, 74, 91, 101).

As to Specification 2: Prisoner Baker names accused as one of the guards who beat prisoners. The beatings occurred with considerable regularity, perhaps once or twice a week (Ex. 10).

Numerous members of the camp were beaten throughout the term of imprisonment by accused and others (Ex. 13).

Prisoner Quinn "witnessed most of the beatings & cruelties administered by HASHIMOTO, OBIYA & HARA set out in detail by other members of Zentsuji camp" (Ex. 95).

b. For the Defense:

Accused was advised of his rights and chose to take the stand in his own behalf. He stated that he was employed at Zentsuji camp from October 1943 until the cessation of hostilities. He was employed as a guard there. He took working parties to the Takamatsu and Sakaiide railway stations every four or seven days. Colonel Sugiyama, Camp Commander, told the guards they were permitted to order errant prisoners to go to the office. If they refused and did any violent act toward them they would be allowed to strike them in self protection. He read Specification 1 and stated that he had some trouble with prisoner Rittahaler in the summer of 1945 (R. 599). Accused had the job of placing those capable of heavy labor on that type of work and the others on light work. He ordered Rittahaler to change from the kitchen work with a prisoner who was doing other work. When he returned in about a half an hour Rittahaler had not changed. He told him again and when he returned in ten minutes he was still working in the kitchen. He grabbed his sleeve and pulled him towards the working place and he refused to go. Accused slapped him with his open hand. This did not knock him down. He did not strike him hard because, if he had done so it would have hurt his arm at the joint. He did not use a club (R. 600). He reported this incident to Sergeant Yamanaka. Concerning Specification 2 he stated that he was in charge of a working party and Hashimoto was in charge of another. There were about 60 feet between the groups. The air raid precaution was sounded and he ordered them to form one group. While they were going to the Zentsuji Station he ordered them on two or three occasions to stay close together. When they got to the station a Kempeitai Major and a Sergeant asked him why the prisoners had opened their distance. He told them that he had warned them several times to stay close together but they would not obey him. They reprimanded him for not properly enforcing his commands and they struck him once or twice. He told the leader of the group which had not closed in that he had been struck because of this. He received the impression that he was laughing at him and slapped him once with his open palm. This did not knock him down (R. 601).

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On cross examination he stated that one time when he saw a prisoner of war stealing tobacco he touched him and told him if he repeated it he would report it to the camp commandant and he would be confined in the guard house. He replied it would be very well because he would rather do nothing and sleep. It was at that time that he touched him with his hand (R. 604).

4. Opinion:

The record is legally sufficient to support the findings of the Commission. Each allegation of the charge and specifications of which accused was found guilty was substantiated by ample and competent evidence. The Commission was constituted by proper authority and had jurisdiction of accused and of the offenses alleged.

The prosecution introduced its evidence by means of affidavits of former prisoners of war who were interned in the camp and were in a position to know the facts of the matters in issue. From such the guilt of the accused was firmly established.

The complete record shows that accused had a fair trial and that he was well represented by competent counsel. He took the stand and testified in his own behalf. A careful scrutiny of the entire record fails to reveal any error which injuriously affected the substantial rights of accused or any failure to accord him a fair trial in every respect. The evidence supports the findings. There is no evidence that accused was not sane at the time the alleged acts were committed and at the time of trial.

5. Recommendations:

The Commission sentenced accused to confinement at hard labor for one (1) year. The sentence is legal.

It is recommended that the sentence be approved. Sugamo Prison, Tokyo, Japan is the appropriate place of confinement.

6. Action:

A form of action designed to carry this recommendation into effect is attached hereto.

/s/ Paul E. Spurlock
/t/ PAUL E. SPURLOCK
Reviewer
Judge Advocate Section

I CONCUR:

/s/ Allan R. Browne
/t/ ALLAN R. BROWNE
Lt Colonel JAGD
Army Judge Advocate